

Service Date: July 7, 1994

FINAL ORDER NO. 6319

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION
1701 Prospect Avenue, P.O. Box 202601
Helena, Montana 59620-2601

IN THE MATTER OF Sure-Way Transportation,)	
Inc., Deer Lodge, Montana, application)	Docket No. T-94.38.PCN
for a Montana Intrastate Certificate)	Order No. 6319
of Public Convenience and Necessity.)	

The Commission being fully advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. On April 28, 1994, Sure-Way Transportation, Inc., P.O. Box 899, Deer Lodge, MT 59722 filed an application with the Montana Public Service Commission under Title 69, MCA, for a Certificate of Public Convenience and Necessity authorizing transportation of the following:

Class D - Biohazardous waste for the account of Sure-Way Systems of Montana from health care facilities in Montana (including, but not limited to, hospitals; nursing homes; medical, dental, and veterinary offices, surgical centers, and laboratories; outpatient treatment facilities; mortuaries; and drug stores) to facilities in Montana designed, constructed, and intended for the treatment of biohazardous waste.

2. In accordance with Section 69-23-321, MCA, this matter was noticed to the public May 6, 1996. That notice said in pertinent part:

If no written protests are received by May 26, 1994, a hearing may not be held and a final order may be issued in this Docket. If a protest is received, a hearing will be scheduled. Individual notice of the hearing will be given only to Protestants and Applicant.

The application included affidavits of support.

3. On May 12, 1994, a protest was filed by Browning Ferris Industries, Inc., Missoula, Montana, and on May 18, 1994, Waste Management of Montana, Inc. dba Waste Management of Great

Falls, Great Falls, Montana, filed a protest to the docket. Waste Management of Montana, Inc.'s protest was withdrawn June 1, 1994, by Applicant restrictively amending the application limiting transportation to that which terminates at a Butte-Silver Bow, Montana facility designed, constructed and intended for the treatment of biohazardous waste.

4. On June 2, 1994, Applicant filed a Motion to Dismiss the Protests. Protestant BFI filed a response to that motion on June 7, 1994. The Commission, determining that further information was required from BFI prior to ruling on the matter, requested that BFI provide a detailed statement to the PSC on the following: 1) how the authority requested by Sure-Way competes or "interferes" with the authority held by BFI; 2) the basis for any fitness challenge; and 3) the legal and factual basis for BFI's anti-trust claim. BFI responded to the PSC's request on June 20, 1994, asserting interference with interstate operations only. On June 21, 1994, the Commission voted to dismiss the protest of Browning-Ferris Industries of Montana, Inc.

5. The record of this application is available for inspection at the Public Service Commission Office, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.

2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.

3. Public Convenience and Necessity require a grant of the authority sought by the Applicant.

ORDER

NOW THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 1701 Prospect Avenue, Helena, Montana, on the 21st day of June, 1994, there being present a quorum of Commissioners, there came regularly before the Commission for final action the matters and things in Docket No. T-94.38.PCN, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of **Sure-Way Transportation, Inc., Deer Lodge, Montana** for a Certificate of Public Convenience and Necessity IS GRANTED to the following extent:

Class D - Biohazardous waste for the account of Sure-Way Systems of Montana originating from health care facilities in Montana (including, but not limited to, hospitals; nursing homes; medical, dental, and veterinary offices, surgical centers, and laboratories; outpatient treatment facilities; mortuaries; and drug stores) to a Butte-Silver Bow, Montana facility designed, constructed, and intended for the treatment of biohazardous waste.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class mail to the applicant and all parties herein.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, IN OPEN SESSION at Helena, Montana, this 21st day of June, 1994, by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman

DAVE FISHER, Commissioner

NANCY McCAFFREE, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.